## REMARKS/ARGUMENTS

The office action of February 18, 2009 has been carefully reviewed and these remarks are responsive thereto. Claim 1 has been amended to correct a typographical error and claims 6 and 19 have been amended to remove a duplicate period at the end of the respective claims. No new matter has been added. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-7, 9, 10, 12-21, 23 and 32-39 are pending upon entry of the present amendment.

### *Rejections under 35 U.S.C. § 103*

Claims 1-7, 9, 10, 12-21, 23 and 32-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,958,009 to Friedrich et al. ("Friedrich") in view of WO 00/33511 to Minde et al. ("Minde"). Applicants respectfully traverse these rejections.

Claim 1 recites, *inter alia*, "receiving a trigger signal at the monitoring apparatus from a remote network entity in response to a critical situation corresponding to the quality of service of the application; and in response to receiving the trigger signal, transmitting, from the monitoring apparatus, the stored network data to a remote network archive." Neither Minde nor Friedrich teaches or suggests such features. In particular, nowhere does either of the references teach or suggest the transmission of data indicative of network behavior to a network archive in response to *a trigger signal received from a remote network entity*. The Office Action concedes that Friedrich fails to teach or suggest such a feature. Instead, the Office Action alleges, at p. 3, that Minde cures this deficiency. In particular, the Office Action asserts that Minde describes receiving a trigger signal at a monitoring apparatus from a remote network entity in response to a critical situation corresponding to the quality of service of an application and in response to receiving the trigger signal at p. 8, ll. 29-30 and p. 9 ll. 1-10. Applicants respectfully disagree. The Office Action appears to analogize Minde's endpoint to the claimed monitoring apparatus. Even assuming, without conceding, that this analogy is valid, Applicants submit that the endpoint described in Minde does not receive a trigger signal in response to a critical situation corresponding to a quality of service of an application *from a remote network site*. Minde describes that an emergency report is generated if a measured end-user quality of service falls

below an acceptable end-user quality of service threshold. (P. 8, line 29 – p. 9, line 2). However, Minde also states that the end-user quality of service, upon which the generation of the emergency report is based, is measured by the endpoint in step 410 (p. 8, ll. 8-12), not a trigger signal from a remote network site, as recited in claim 1. Clearly, Minde's endpoint is not a remote network site from which the trigger signal is received. Accordingly, claim 1 is allowable for at least these reasons.

Claim 13 recites, *inter alia*, "at least one testing apparatus, separate from the at least one monitoring apparatus, configured to detect a critical situation related to said quality of service and to generate, in response to said critical situation, a trigger signal, and a collecting apparatus configured to collect, in response to the generation of said trigger signal, said data indicative of the behavior of the network measured and stored in said at least one monitoring apparatus." As discussed above with respect to claim 1, the Office Action concedes that Friedrich does not teach or suggest a trigger signal from a remote network entity in response to a critical situation corresponding to the quality of service of the application. Minde fails to cure these deficiencies. In particular, Minde's description of generating an emergency report when the measured end-user quality of service falls below an acceptable end-user quality of service threshold does not teach or suggest a trigger signal received from a remote network entity. Instead, Minde describes that the end-user quality of service is measured at the endpoint (i.e., the alleged monitoring apparatus). Accordingly, claim 13 is allowable for at least these reasons.

Claims 2-7, 9, 10, 12, 14-21 and 23 are dependent claims and are thus allowable for at least the same reasons as their respective base claims and further in view of the novel and non-obvious features recited therein.

Claims 32 and 37 recite features similar to those discussed above with respect to claim 1 and are thus allowable for at least the same reasons as claim 1.

Claims 33-36 and 38 and 39 are dependent on claims 32 and 37, respectively, and are thus allowable for at least the same reasons as their respective base claims.

## CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,

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